

COHEN-JOHNSON, LLC
255 E. Warm Springs Road, Suite 100
Las Vegas, Nevada 89119
(702) 823-3500 FAX: (702) 823-3400

H. Stan Johnson, Nevada Bar #00265
COHEN-JOHNSON, LLC
255 E. Warm Springs Road, Suite 100
Las Vegas, Nevada 89119
Telephone: (702) 823-3500
Facsimile: (702) 823-3400
sjohnson@cohenjohnson.com

Attorney for Petitioner Yakov J. Hefetz

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

v.

NATHAN "NATI" STOLIAR,
aka NATAN STOLIAR,

Defendant.

No. 2:14-CR-00006-APG-(GFW)

VERIFIED PETITION OF YAKOV J.
HEFETZ FOR ANCILLARY HEARING
PURSUANT TO TITLE 21, UNITED
STATES CODE, SECTION 853(N)

YAKOV J. HEFETZ (Petitioner), an individual, by and through his counsel H. Stan Johnson, Esq., of Cohen-Johnson, LLC, hereby respectfully petitions this Court for an ancillary hearing pursuant to Title 21, United States Code, Section 853(n) and asserts his interest as an innocent third party with respect to real property which has been forfeited to the United States, in the above-styled case, as follows:

1. Petitioner asserts his equitable ownership interest in the following residential real property listed and described in the Preliminary Order of Forfeiture (Document 92) filed on July 22, 2014 and signed by The Honorable Andrew P. Gordon under paragraph no. 7, to wit: Real property located at 19645 Rosita Street, Tarzana, California 91356, together with all improvements and appurtenances thereon; APN: 2175-013-011 (the Real Property).

2. The Preliminary Order of Forfeiture included an Order that the United States of America (Plaintiff) "shall publish for at least thirty (30) consecutive days on the official internet government forfeiture website, www.forfeiture.gov, notice of this Order, which shall describe the forfeited property, state the time under the applicable statute when a petition contesting forfeiture must be filed, and state the name and contact information for the government attorney to be

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1 served with the petition, pursuant to Fed. R. Crim. P. 32.2(b)(6) and Title 21, United States
2 Code, Section 853(n)(2).”

3 3. As evidenced by the Notice of Filing of Proof of Publication (Document 98) filed
4 by Plaintiff on August 26, 2014, Plaintiff complied with the Order quoted in paragraph no. 2
5 immediately above, the first date of publication of the Notice of Forfeiture being July 25, 2014.

6 4. The Preliminary Order of Forfeiture included an Order “that any individual or
7 entity who claims an interest in the aforementioned property must file a petition for a hearing to
8 adjudicate the validity of the petitioner’s alleged interest in the property, which petition shall be
9 signed by the petitioner under penalty of perjury pursuant to Title 21, United States Code,
10 Section 853(n)(3) and Title 28, United States Code, Section 1746, and shall set forth the nature
11 and extent of the petitioner’s right, title, or interest in the forfeited property and any additional
12 facts supporting the petitioner’s petition and the relief sought.”

13 5. The instant Petition for Ancillary Hearing complies with the Order quoted in
14 paragraph no. 4 immediately above.

15 6. The Preliminary Order of Forfeiture included an Order that “a petition, if any,
16 must be filed with the Clerk of the Court, 333 Las Vegas Boulevard South, Las Vegas, Nevada
17 89101, no later than thirty (30) days after the notice is sent or, if direct notice was not sent, no
18 later than sixty (60) days after the first day of the publication on the official internet government
19 forfeiture site, www.forfeiture.gov.”

20 7. Direct notice of the Preliminary Order of Forfeiture was not sent to Petitioner
21 and, accordingly, his Petition for Ancillary Hearing must be filed on or before September 23,
22 2014 (sixty (60) days after the first day of the publication on July 25, 2014).

23 8. The filing today, September 23, 2014, of the instant Petition for Ancillary Hearing
24 complies with the Order quoted in paragraph no. 6 above.

25 9. Based upon the facts and circumstances stated in paragraph no. 10 below,
26 Petitioner is the Lender and Beneficiary, respectively, of an equitable constructive or resulting
27 trust on and in the subject Real Property executed, by operation of California Civil Code
28 Sections 2223 and 2224 and relevant California case law, by Defendant Stoliar, as Borrower and

Trustor, respectively, in favor of Petitioner, evidencing Petitioner's personal loans to Defendant Stoliar of \$150,000.00 on August 21, 2012 and of \$40,000.00 on September 20, 2012 for the specific purpose of Defendant Stoliar's purchase of the subject Real Property, and securing repayment of the loans through Petitioner's equitable interest in the subject Real Property.

10. The circumstances under which Petitioner acquired his interest are as follows:

a. In late summer 2012, Defendant Stoliar desired to purchase the subject Real Property located in Tarzana, California;

b. The purchase price of the subject Real Property was \$725,000.00;

c. Defendant Stoliar financed \$550,000.00 of the purchase price, evidenced by the Promissory Note Secured by Deed of Trust dated September 20, 2012, Nathan Stoliar, Borrower and Trustor, and GEG Capital, LLC, Lender and Beneficiary (Exhibit "A" to this Petition);

d. Defendant Stoliar sought a personal loan to finance the remainder of the purchase price;

d. Petitioner was introduced to Defendant Stoliar by a mutual acquaintance and he agreed to lend Defendant Stoliar a total of \$190,000.00 for the sole and specific purpose of his purchase of the subject Real Property;

e. On August 21, 2012, Petitioner tendered to Defendant Stoliar his Cashier's Check No. 10108576 issued by Bank of Nevada for \$150,000.00 (Exhibit B to this Petition);

f. On September 20, 2012, Petitioner tendered to Defendant Stoliar his personal check No. 898 from his Bank of Nevada checking account for \$40,000.00 (Exhibit C to this Petition);

g. Upon information and belief, \$180,000.00 of the total loan proceeds were used for the purchase price of the subject Real Property and the balance of the loan proceeds were used to pay closing costs;

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1 h. Petitioner and Defendant Stoliar agreed that each of the two loans would
2 bear interest at 10% per annum and would be repaid in full within eighteen (18) months from the
3 date the respective loans were made;

4 i. Defendant Stoliar promised Petitioner that he would execute a Promissory
5 Note and Deed of Trust securing the Promissory Note in his ownership of the subject Real
6 Property;

7 j. Defendant Stoliar, however, subsequent to receiving the loans from
8 Petitioner, failed and refused to execute a Promissory Note and Deed of Trust in spite of repeated
9 requests and demands by Petitioner that he do so;

10 k. As of the filing of this Petition for Ancillary Hearing, Defendant Stoliar
11 has not made any payments of principal or interest to Petitioner on either of the two loans;

12 l. There is presently due and owing on the loan made on August 21, 2012 (a)
13 a principal balance of \$150,000.00 and (b) accrued and unpaid interest in the amount of
14 \$31,356.16 as of September 22, 2014, a total of \$181,356.16;

15 m. There is presently due and owing on the loan made on September 20, 2012
16 (a) a principal balance of \$40,000.00 and (b) accrued and unpaid interest in the amount of
17 \$8,032.88 as of September 22, 2014, a total of \$48,032.88;

18 n. As of September 22, 2014, Petitioner's equitable interest in the subject
19 Real Property, inclusive of principal and interest on both loans, is \$229,389.04.

20 11. Pursuant to Title 21, United States Code, Section 853(n)(6), Petitioner is a bona
21 fide purchaser for value of the right, title, or interest in the subject Real Property and was at the
22 time of purchase reasonably without cause to believe that the subject Real Property was subject
23 to forfeiture.

24 12. Plaintiff will be unjustly enriched if Petitioner's interest in the subject Real
25 Property is not recognized and sustained.

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13. Petitioner seeks relief from this Court's Preliminary Order of Forfeiture and hereby requests that this Honorable Court hold a hearing ancillary to the criminal conviction of Defendant Stoliar at which Petitioner may testify and present evidence and witnesses on his own behalf pursuant to Title 21, United States Code, Section 853(n)(5), and further that this Court amend its Preliminary Order of Forfeiture dated July 22, 2014 to fully recognize the interest of Petitioner in the subject Real Property as it is set forth herein.

COHEN-JOHNSON, LLC

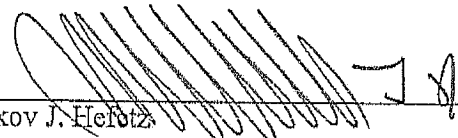
M. Stan Johnson, Nevada Bar #00265
255 E. Warm Springs Road, Suite 100
Las Vegas, Nevada 89119
Attorney for Petitioner

VERIFICATION

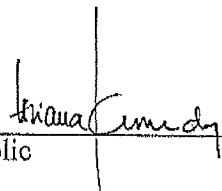
STATE OF NEVADA)
Clark County) ss.

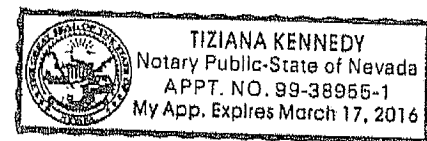
I verify and declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

EXECUTED this 19th day of September, 2014.


Yakov J. Hefetz

SUBSCRIBED AND SWORN TO before me this 19th day of September, 2014 by
Yakov J. Hefetz.


Notary Public

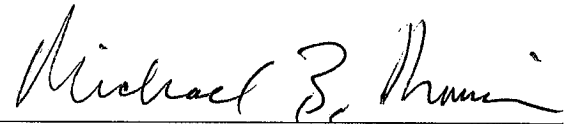


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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 23rd day of September, 2014, a true and correct copy of the foregoing **VERIFIED PETITION OF YAKOV J. HEFETZ FOR ANCILLARY HEARING PURSUANT TO TITLE 21, UNITED STATES CODE, SECTION 853(N)** was served by hand-delivery upon the Asset Forfeiture Attorney of the United States Attorney's Office at the following address:

Daniel D. Hollingsworth
Assistant United States Attorney
Lloyd D. George United States Courthouse
333 Las Vegas Boulevard South, Suite 5000
Las Vegas, Nevada 89101.



Michael B. Morrison
An employee of Cohen-Johnson, LLC

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